

House Daily Reader

Friday, February 24, 2012

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State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

708T0307

SENATE ENGROSSED NO. **HB 1066** - 2/22/2012

Introduced by: Representatives Deelstra, Abdallah, Blake, Bolin, Conzet, Dennert, Elliott, Gibson, Gosch, Haggar, Hansen (Jon), Hickey, Hoffman, Hubbel, Hunt, Killer, Kirkeby, Liss, Lucas, Miller, Moser, Nelson (Stace), Scott, Sly, Solum, Street, Stricherz, Tornow, Vanneman, Wick, and Willadsen and Senators Hunhoff (Jean), Bradford, Brown, Buhl, Juhnke, Peters, Rave, Schlekeway, and Sutton

1 FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased persons who are
2 indigent and the funeral expenses are the financial responsibility of the county.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 28-17-1 be amended to read as follows:

5 28-17-1. If any person ~~shall die~~ dies within any county, who ~~shall~~ does not have money or
6 means necessary to defray ~~his~~ the funeral expenses, and whose relatives or friends are unable
7 or unwilling to defray the ~~same, it shall be the duty of~~ expenses, the county commissioners ~~to~~
8 shall employ a ~~person~~ funeral director to provide for and superintend the burial or cremation of
9 ~~such~~ the deceased person.

10 Section 2. That § 28-17-2 be amended to read as follows:

11 28-17-2. ~~Whenever~~ If any person who is destitute and has no estate ~~shall die~~ dies within the
12 state, and who has no one legally bound for funeral expenses, and where there is no other source
13 to pay the cost of burial or cremation expense, the funeral expenses shall ~~then~~ be borne by the



1 county in which the deceased was a resident at time of death, ~~and if.~~ If no residence can be
2 ~~fixed, then~~ determined for the deceased person, the funeral expenses shall be borne by the
3 county in which death occurred.

4 Section 3. That § 28-17-3 be amended to read as follows:

5 28-17-3. The selection of a funeral director ~~shall~~ may be made by the tribe or next of kin,
6 if any, otherwise by the ~~county commissioner in whose district death occurred~~ board of county
7 commissioners. The determination whether the decedent is buried or cremated may be made by
8 the tribe or next of kin, if any, otherwise by the board of county commissioners. In no case ~~shall~~
9 may the county commissioners advertise for bids on burial or cremation of indigent poor.

10 Section 4. That § 28-17-4 be amended to read as follows:

11 28-17-4. On county burials, the funeral director in charge shall furnish a casket and outside
12 container and conduct the funeral services ~~in customary form, and the.~~ On county cremations,
13 the funeral director in charge shall furnish an urn or container and conduct the funeral services.
14 The county shall allow the funeral director for merchandise and ~~such~~ services rendered, a sum
15 to be established by resolution of the board of county commissioners ~~in such county at their~~ at
16 the annual organizational meeting.

17 Section 5. That § 28-17-5 be amended to read as follows:

18 28-17-5. In addition to the burial and cremation expenses provided in § 28-17-4, the county
19 commissioners may contract with cemeteries within the state for burial space in a cemetery and
20 the opening and closing of the grave.

21 Section 6. That § 28-17-6 be amended to read as follows:

22 28-17-6. The necessary and reasonable expenses of burial or cremation under this chapter
23 shall be paid by the county treasurer, upon the order of ~~such~~ the commissioners; ~~and if.~~ If the
24 decedent ~~shall have~~ had an established residency according to § 28-13-3 in a county in this state

1 different from that in which ~~he~~ the decedent died, the county paying ~~such~~ the funeral expenses
2 shall be reimbursed by the county in which the decedent had an established residency. ~~When the~~
3 ~~person so dying shall be~~ If the decedent was an honorably discharged United States soldier,
4 sailor, marine, or aviator, the funeral shall be conducted and expenses paid as provided in
5 chapter 33A-5.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

660T0103

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1131** - 2/15/2012

Introduced by: Representatives Tulson, Abdallah, Bolin, Brunner, Elliott, Hoffman, Jensen, Jones, Kirkeby, Magstadt, and Verchio and Senators Holien, Begalka, Heineman, Lederman, Novstrup (Al), Rampelberg, Rhoden, Schlekeway, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the posting of public
2 notice for meetings of public bodies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-25-1.1 be amended to read as follows:

5 1-25-1.1. All public bodies shall provide public notice, with proposed agenda, ~~at least~~
6 ~~twenty-four hours prior to~~ that is visible, readable, and accessible for at least an entire twenty-
7 four hours before any meeting, by posting a copy of the notice, visible to the public, at the
8 principal office of the public body holding the meeting, ~~and, for.~~ The notice shall also be posted
9 on the public body's website upon dissemination of the notice, if such a website exists. For
10 special or rescheduled meetings, delivering, the information in the notice shall be delivered in
11 person, by mail, by email, or by telephone, the information in the notice to members of the local
12 news media who have requested notice. For special or rescheduled meetings, all public bodies
13 shall also comply with the public notice provisions of this section for regular meetings to the



1 extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

913T0562

SENATE COMMERCE AND ENERGY ENGROSSED NO. **HB 1227** - 2/16/2012

Introduced by: Representatives Abdallah, Blake, Bolin, Conzet, Cronin, Deelstra, Dennert, Gibson, Hansen (Jon), Hoffman, Hunhoff (Bernie), Lucas, Rausch, Scott, Turbiville, White, and Wick and Senators Brown, Bradford, Krebs, Lederman, Maher, Nelson (Tom), Novstrup (Al), Olson (Russell), Peters, Rave, and Schlekeway

1 FOR AN ACT ENTITLED, An Act to revise certain provisions with regard to the rights of
2 industrial and construction equipment dealers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 37-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any dealer, as defined in § 37-5-12.1 or subdivision 37-5-13(1), whose business or property
7 is injured by a violation of chapter 37-5 may bring a civil action to recover all court costs and
8 reasonable attorney's fees in addition to all other remedies of law.

9 Section 2. That § 37-5-11 be amended to read as follows:

10 37-5-11. Any provision in any agreement evidenced by a franchise agreement, sales
11 agreement, security agreement, or other form of agreement or arrangement of like effect
12 between any wholesaler, manufacturer, ~~or~~ distributor of farm machinery or implements, or
13 distributor of industrial or construction equipment and a retail dealer restricting jurisdiction or



venue to a forum outside this state or requiring the application of the laws of another state to disputes arising under the agreement is void as a matter of public policy.

Section 3. That § 37-5-12.1 be amended to read as follows:

37-5-12.1. For the purposes of §§ 37-5-1 to 37-5-12, inclusive, the term, dealer, means any person, or the person's successor who, for commission or with intent to make a profit or gain, sells, exchanges, rents, leases with the option to purchase, or offers or attempts to negotiate a sale or exchange any merchandise as defined by this chapter from manufacturer authorized facilities in this state, or who is engaged wholly or in part in the business of selling any such merchandise from manufacturer authorized facilities in this state. The term does not include any person with total annual gross sales in this state and elsewhere of one hundred million dollars or more of industrial and construction equipment, attachments, replacement parts, and service related to the equipment, from any one manufacturer or supplier of such equipment.

Section 4. That § 37-5-13 be amended to read as follows:

37-5-13. Terms used in §§ 37-5-13 to 37-5-15, inclusive, mean:

(1) "Dealer," any person who receives machinery from a manufacturer under a dealership contract and who offers and sells the machinery to the general public from manufacturer authorized facilities in this state. The term, dealer, does not include a single-line dealer or any person with total annual gross sales in this state and elsewhere of one hundred million dollars or more of industrial and construction equipment, attachments, replacement parts, and service related to the equipment, from any one manufacturer or supplier of such equipment;

(2) "Dealership contract," a written agreement or contract between a manufacturer and dealer which fixes the legal rights and liabilities of the parties to such agreement or contract;

- 1 (3) "Machinery," any farm vehicle as defined by § 32-3-2.4 or any off-road vehicle as
2 defined by subdivision 32-3-1(15) or merchandise as defined in subdivision 37-5-
3 12.2(3);
- 4 (4) "Manufacturer," any person engaged in the manufacturing or distribution of
5 machinery including any person who acts for the manufacturer;
- 6 (5) "Single-line dealer," any person that has purchased seventy-five percent or more of
7 the dealer's total new product inventory from a single manufacturer of industrial and
8 construction equipment under agreements with that manufacturer and has a total
9 annual average sales of industrial and construction equipment volume for the three
10 previous years with that single manufacturer in excess of fifty million dollars for the
11 territory for which that dealer is responsible.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

681T0420

SENATE ENGROSSED NO. **SB 75** - 2/13/2012

This bill has been extensively amended (hghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Kraus, Maher, Nelson (Tom), and Novstrup (Al) and
Representatives Willadsen and Hunt

1 FOR AN ACT ENTITLED, An Act to revise the determination of fees that may be charged for
2 certain public records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-27-1.2 be amended to read as follows:

5 1-27-1.2. If a custodian of a public record of a county, municipality, political subdivision,
6 or tax-supported district provides to a member of the public, upon request, a copy of the public
7 record ~~by transmitting it from a modem to an outside modem~~, a reasonable fee may be charged
8 for ~~such~~ any specialized service. Such fee may include a reasonable amount representing a
9 portion of the amortization of the cost of computer equipment, including software, necessarily
10 added in order to provide such specialized service. This section does not require a governmental
11 entity to acquire computer capability to generate public records in a new or different form if that
12 new form would require additional computer equipment or software not already possessed by
13 the governmental entity.

14 No fee may be charged for the electronic transfer of any minutes of a political subdivision,



- 1 board or agency of a political subdivision, or the governing board of an agency that levies
- 2 property taxes that were recorded in the last three years.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

921T0283

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 101** - 1/30/2012

Introduced by: Senators Hansen (Tom), Frerichs, Gray, Juhnke, Maher, and Novstrup (Al)
and Representatives Kirkeby, Cronin, Fargen, Munsterman, and Street

1 FOR AN ACT ENTITLED, An Act to authorize counties to borrow money using promissory
2 notes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 7-21 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The provisions of § 7-21-16 or any other provision of law notwithstanding, a county may
7 borrow money from any source willing to lend the money by issuing a promissory note subject
8 to the limitations set in sections 2 to 5, inclusive, of this Act. Notes issued pursuant to this
9 section are payable solely from the sources provided in section 2 of this Act and do not
10 constitute an indebtedness of the county within the meaning of any constitutional or statutory
11 provisions or limitations. The notes shall specify the authority under which the notes are issued
12 and shall state that the notes are issued in conformity with the provisions, restrictions, and
13 limitations of sections 2 to 5, inclusive, of this Act and that the notes and the interest on the
14 notes are payable from the sources specified in sections 2 to 5, inclusive, of this Act. The notes



1 shall be authorized, issued, and sold in accordance with chapter 6-8B. No election is required,
2 and the notes may not be issued for a term in excess of five years.

3 Section 2. That chapter 7-21 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The money borrowed pursuant to section 1 of this Act may not exceed the sum of ninety-five
6 percent of the amount of uncollected taxes levied by the county for the current fiscal year plus
7 other receivables of the fund, including state or federal grant moneys, that have been earned by
8 the county or committed by the state or federal governments but not collected at the date of
9 borrowing.

10 Section 3. That chapter 7-21 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If any registered warrants or promissory notes are outstanding against the fund for which the
13 money is to be borrowed, the borrowing limit specified in section 2 of this Act is reduced by the
14 amount of the outstanding warrants or promissory notes.

15 Section 4. That chapter 7-21 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The rate of interest for a promissory note authorized by section 1 of this Act shall be stated
18 on the note. The note shall be signed by the chair of the board of county commissioners and by
19 the county auditor.

20 Section 5. That chapter 7-21 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 If a note authorized by sections 1 to 4, inclusive, of this Act has been issued and not paid
23 in full within the term provided in section 1 of this Act, no cash receipts may be expended for
24 any purpose except the retirement of principal and interest of notes outstanding against that

1 fund, until all such notes are retired.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

744T0285

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 123** - 2/22/2012

Introduced by: Senators Rhoden, Begalka, Frerichs, Fryslie, Hansen (Tom), Haverly, Juhnke, Maher, Nelson (Tom), Nygaard, Peters, Putnam, Rampelberg, Schlekeway, Sutton, Tidemann, and Tieszen and Representatives Solum, Bolin, Boomgarden, Brunner, Cronin, Dennert, Gibson, Greenfield, Hawley, Hoffman, Jensen, Kloucek, Kopp, Olson (Betty), Rausch, Romkema, Russell, Schaefer, Schrempp, Street, Turbiville, Vanneman, Verchio, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise how the taxes are applied to rural electric
2 companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-36-6 be amended to read as follows:

5 10-36-6. There is levied on each company subject to §§ 10-36-1 and 10-36-2, as of May first
6 of each year, a tax of ~~two percent upon the gross receipts derived by it from the furnishing of~~
7 ~~electric energy~~ \$0.0016 per kilowatt hour of retail electric energy and a tax of \$0.0008 per
8 kilowatt hour of wholesale electric energy delivered to its customer within the state of South
9 Dakota during the preceding calendar year. ~~Gross receipts for taxation purposes may not include~~
10 ~~dividends or distributions to patrons whether paid or credited.~~

11 Each company taxed pursuant to ~~§ 10-36-6~~ this section shall receive a credit against the
12 ~~gross receipts tax~~ taxes due and payable under this section if it has contracted jointly or severally



1 for the use of property in this state owned, held under lease, or otherwise by a light or power
2 company defined in § 10-35-2, a consumer power district organized pursuant to chapter 49-35,
3 or a municipal power agency organized pursuant to chapter 9-41A if the property is assessed for
4 taxation pursuant to chapter 10-35, subject to an excise tax as provided in § 49-37-13, or taxed
5 as provided in § 9-41A-36. A company taxed pursuant to ~~§ 10-36-6~~ this section may deduct as
6 a credit from the ~~gross receipts tax~~ taxes to be paid under this section, that portion of the taxes
7 included in the payments by the company to such organizations for the use of the property
8 described in the contract.

9 Section 2. That § 10-36-3 be amended to read as follows:

10 10-36-3. ~~The term, rural areas, as used in this chapter means either any area not included~~
11 ~~within the boundaries of any municipality having a population in excess of fifteen hundred~~
12 ~~inhabitants or the assigned service area or areas of a rural electric cooperative determined~~
13 ~~pursuant to chapter 49-34A. The term, line, does not necessarily mean a single circuit but is a~~
14 ~~succession of poles connected by wires regardless of the number of circuits on a particular pole~~
15 ~~or poles. Those persons, corporations, cooperatives, and associations are herein referred to as~~
16 ~~"companies."~~ Terms used in this chapter mean:

- 17 (1) "Company," any person, corporation, cooperative, or association engaged in the
18 distribution or transmission of electric energy solely within the United States for
19 consumption principally in rural areas;
- 20 (2) "Line," a succession of poles connected by wires regardless of the number of circuits
21 on a particular pole or poles;
- 22 (3) "Personal property," any property used or intended for use by a company in
23 connection with the distribution or transmission of electric energy including all poles,
24 wires, lines, transformers, meters, machinery, fixtures, and all attachments and

1 appurtenances thereto;

2 (4) "Retail company," any company engaged in the distribution of retail electric energy
3 for end user consumption principally in rural areas in South Dakota;

4 (5) "Rural area," any area not included within the boundaries of any municipality having
5 a population in excess of fifteen hundred inhabitants or the assigned service area or
6 areas of a rural electric cooperative determined pursuant to chapter 49-34A;

7 (6) "Wholesale power supplier," any company engaged in the delivery of wholesale
8 electric energy to another company for resale in South Dakota.

9 Section 3. That § 10-36-4 be amended to read as follows:

10 10-36-4. Each company as defined in § 10-36-1, shall keep on file with the county auditor
11 of each county through or into which its line or lines run, a map or blueprints showing correctly
12 the location of its line or lines in ~~such~~ the county and in each governmental subdivision thereof.

13 Section 4. That § 10-36-5 be amended to read as follows:

14 10-36-5. On ~~April~~ February fifteenth of each year, each retail company on behalf of itself
15 and its wholesale power supplier shall file with the secretary of revenue on forms prescribed by
16 ~~him the secretary~~ a report of its gross receipts derived from furnishing electric energy during the
17 preceding calendar year. The report shall set forth the total gross receipts and the amount of
18 dividends and patron's credits of the company in the state, together with the total gross receipts
19 and the amount of dividends and patron's credits from each county in which the company
20 operates and shall further contain the total gross receipts and the amount of dividends and
21 patron's credits received by the company within each school district in each county in which the
22 company operates the number of kilowatt hours of retail and wholesale electric energy subject
23 to taxation pursuant to this chapter apportioned to each county and school district in proportion
24 to electric energy delivered at retail. The report shall be sworn to and verified by an officer of

1 the retail company.

2 Section 5. That § 10-36-7 be amended to read as follows:

3 10-36-7. The secretary of revenue shall compute and determine the amount of tax to be paid
4 by ~~such each~~ company as provided in § 10-36-6 ~~and, which shall be remitted by the retail~~
5 ~~company. The secretary shall on or before July first following May fifteenth~~ certify to the county
6 auditor of each county in the state in which ~~such the~~ company operates the amount of the tax
7 to be paid in ~~such the~~ county ~~on the basis of the gross receipts received by such company from~~
8 ~~its operations in such county and based on the kilowatt hours delivered. The secretary shall~~
9 further certify to the county auditor the amount to which each school district shall be entitled
10 in each ~~such~~ county ~~on the basis of the gross receipts received by such company in each school~~
11 ~~district based on the kilowatt hours delivered. The county auditor shall extend such tax on his~~
12 ~~the~~ books and certify the same to the county treasurer.

13 Section 6. That § 10-36-8 be amended to read as follows:

14 10-36-8. The tax levied by § 10-36-6 shall become due and be payable to the county
15 treasurer of each county in which ~~such the retail~~ company operates and as certified by the
16 secretary of revenue on ~~September first June fifteenth~~ of each year following the filing of the
17 report of ~~such gross receipts~~ kilowatt hours delivered.

18 Section 7. That § 10-36-9 be amended to read as follows:

19 10-36-9. If the tax levied under this chapter is not paid on the due date a penalty of five
20 percent of the amount of the tax shall be imposed for each month of such delinquency. Provided
21 further that ~~such the~~ tax may be enforced and collected by distress and sale of the personal
22 property of ~~such the~~ company ~~in the same manner as is provided for the collection of personal~~
23 ~~property taxes~~.

24 Section 8. That § 10-36-10 be amended to read as follows:

1 10-36-10. The county treasurer shall allocate and transmit the taxes collected from each ~~such~~
2 company to the school ~~treasurers~~ treasurer of each school district in which ~~such~~ the company
3 operates on the basis of the ~~gross receipts received by such~~ number of kilowatt hours delivered
4 by the company from its operations within each ~~such~~ school district within the county.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

777T0692

SENATE EDUCATION ENGROSSED NO. **SB 127** - 2/2/2012

Introduced by: Senators Brown, Haverly, Novstrup (Al), Peters, and Tidemann and
Representatives Cronin and Wink

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding educational data
2 reporting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-3-51 be amended to read as follows:

5 13-3-51. The secretary of the Department of Education shall establish a uniform system for
6 the gathering and reporting of educational data for the keeping of adequate educational and
7 financial records and for the evaluation of educational progress. Any school district or school
8 seeking state accreditation shall submit enrollment data, personnel data, and verify all state and
9 federal standards for accreditation and approval of schools, including those related to safety and
10 educational equity of the school district or school by October fifteenth of each year. Any school
11 district with an average daily membership as defined in § 13-13-10.1 of greater than five
12 thousand in the previous school fiscal year has an additional seven days to submit the required
13 data. If the due date falls on a weekend or state holiday, the due date is the next business day
14 following the scheduled due date. Any public school district shall also submit to a survey



1 regarding the district's budget, programs, workforce, or other related data by October fifteenth
2 of each year, if required by the South Dakota Department of Education. An annual written
3 evaluation of the educational progress in the state and in each school district shall be submitted
4 to the Legislature and made available in each school district to the general public. The South
5 Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to further define the
6 data required pursuant to this section.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

156T0673

SENATE ENGROSSED NO. **SB 169** - 2/13/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Hansen (Tom), Begalka, Frerichs, Krebs, Novstrup (Al), and Peters
and Representatives Street, Greenfield, Rozum, Sigdestad, and Tulson

1 FOR AN ACT ENTITLED, An Act to establish the Regional Watershed Advisory Task Force.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. There is hereby established the Regional Watershed Advisory Task Force. The
4 task force shall consist of the following fourteen members:

5 (1) The speaker of the House of Representatives shall appoint four members of the
6 House of Representatives, no more than two of whom may be from one political
7 party;

8 (2) The speaker of the House of Representatives shall appoint three members of the
9 general public. At least one of the members shall have a background in natural
10 resources law, science, or management, and at least one of the members shall have
11 an agricultural or business background;

12 (3) The president pro tempore of the Senate shall appoint four members of the Senate,
13 no more than two of whom may be from one political party; and

14 (4) The president pro tempore of the Senate shall appoint three members of the general



1 public. At least one of the members shall have a background in natural resources law,
2 science, or management, and at least one of the members shall have an agricultural
3 or business background.

4 The initial appointments shall be made no later than July 1, 2012, and shall serve until
5 January 12, 2013. The speaker of the House of Representatives and president pro tempore of the
6 Senate, before the close of each regular session of the Legislature held in odd-numbered years,
7 shall appoint members to the task force for a term of two years. If there is a vacancy on the task
8 force, the vacancy shall be filled in the same manner as the original appointment.

9 Section 2. The Regional Watershed Advisory Task Force established pursuant to section 1
10 of this Act shall conduct studies and evaluations on matters relating to drainage, erosion, flood
11 control, reclamation, environmental protection, and improvement of lands, soils, waters, and all
12 other authorized purposes and may advise any new or existing special purpose district or
13 government entity on such issues. In addition, the task force shall consider potential alternative
14 organizational structures and entities appropriate to address such issues. The task force shall
15 report to the Senate and House of Representatives and may submit a copy of its report to the
16 Governor. The task force may present draft legislation and policy recommendations to the
17 Legislative Research Council Executive Board. The task force shall make recommendations in
18 the following areas:

- 19 (1) The proper role, purposes, structure, powers, boundaries, and financing for regional
20 and local watershed districts and the relationship of such districts to other types of
21 water and natural resources-related special purpose districts;
- 22 (2) The role of watershed districts and other state and local government entities with
23 respect to drainage issues, including drainage planning and management, resolution
24 of drainage disputes, and recommendations for potential realignment of

1 responsibilities for drainage matters; and

2 (3) Potential alternative organizational structures, entities, and strategies appropriate to
3 address statewide, regional, and local issues relating to water and natural resources
4 conservation, protection, management, and use.

5 Section 3. The provisions of this Act are repealed on January 20, 2015.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

195T0631

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 174** - 2/22/2012

Introduced by: Senators Brown, Bradford, Frerichs, Hansen (Tom), Heineman, Juhnke, Olson (Russell), Peters, Putnam, Schlekeway, Tidemann, Tieszen, and Vehle and Representatives Cronin, Abdallah, Gibson, Hunhoff (Bernie), Rozum, and White

1 FOR AN ACT ENTITLED, An Act to increase the 911 emergency surcharge, to revise the
2 collection and distribution of the surcharge revenue, to provide for point of sale collection
3 of the prepaid wireless 911 emergency surcharge, and to provide funding for the upgrade of
4 911 emergency services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 34-45-2 be amended to read as follows:

7 34-45-2. ~~The governing body of a public corporation may by ordinance authorize a 911~~
8 ~~emergency reporting system. The ordinance shall include a description of the proposed 911~~
9 ~~service area. If the governing body of a public agency had adopted an ordinance authorizing a~~
10 911 emergency reporting system which was in effect on January 1, 2012, the ordinance remains
11 in effect for establishing such 911 service area unless amended or repealed by the public agency.
12 Any provision in the ordinance establishing a surcharge is no longer in effect after July 1, 2012.

13 Section 2. That § 34-45-4 be amended to read as follows:



1 34-45-4. ~~Upon compliance with § 34-45-2, the governing body may assess a A monthly~~
2 uniform ~~charge in an amount not to exceed seventy-five~~ 911 emergency surcharge of one dollar
3 and twenty-five cents shall be assessed per service user line. The proceeds of this ~~charge~~
4 surcharge shall be used to pay for allowable nonrecurring and recurring costs of the 911 system.
5 ~~Any prepaid wireless telecommunications service provider shall remit the 911 emergency~~
6 ~~surcharge for each active prepaid wireless telecommunication service user account to the South~~
7 ~~Dakota 911 coordination fund. The proceeds of the South Dakota 911 coordination fund are~~
8 ~~continuously appropriated for reimbursement of allowable nonrecurring and recurring costs of~~
9 ~~911 service and operating expenses of the board. No such charge~~ No 911 emergency surcharge
10 may be imposed upon more than one hundred service user lines or equivalent service, per
11 customer account billed, per month. In the case of multi-station network systems, service user
12 lines shall be equal to the number of calls that can simultaneously be made from such system
13 to the public switched telephone network. No prepaid wireless telecommunications service is
14 subject to the surcharge imposed under this section.

15 Section 3. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 There is hereby imposed a prepaid wireless 911 emergency surcharge of two percent upon
18 the gross receipts of each retail transaction for the purchase of prepaid wireless
19 telecommunications service. The prepaid wireless surcharge shall be collected by the prepaid
20 wireless service seller from the prepaid wireless service consumer during each retail transaction.
21 For purposes of this section, the term, retail transaction, means when the purchase of a prepaid
22 wireless telecommunications service is made in this state or has been determined to be a sale
23 occurring in this state pursuant to § 10-45-108. The amount of the prepaid wireless surcharge
24 shall be separately stated on an invoice, receipt, or other similar document that is provided to

1 the prepaid wireless service consumer by the prepaid wireless service seller. The service
2 consumer is liable to pay the prepaid wireless surcharge imposed by this section. The prepaid
3 wireless service seller is liable to collect and remit all prepaid wireless surcharges imposed by
4 this section. The prepaid wireless service seller is not liable for any prepaid wireless surcharge
5 imposed by this section if the prepaid wireless service seller is unable to collect the surcharge
6 from the service consumer.

7 If the amount of the prepaid wireless surcharge that is imposed by this section is separately
8 stated on an invoice, receipt, or other similar document provided to the prepaid wireless service
9 consumer, the prepaid wireless surcharge may not be included in the base for measuring any
10 other tax, fee, surcharge, or other charge that is imposed by this state or its political
11 subdivisions. If the prepaid wireless telecommunications service is sold with one or more other
12 products or services for a single, non-itemized price, the prepaid wireless surcharge imposed
13 by this section shall apply to the entire non-itemized price unless the prepaid wireless service
14 seller elects to apply the surcharge to:

- 15 (1) The amount of the prepaid wireless telecommunications service that is disclosed to
16 the prepaid wireless service consumer as a dollar amount including the surcharge
17 imposed by this section; or
- 18 (2) The prepaid wireless service seller identifies the portion of the price that is
19 attributable to the prepaid wireless telecommunications service by reasonable and
20 verifiable standards from its books and records that are kept in the regular course of
21 business.

22 However, if the amount of prepaid wireless telecommunications service sold for a single,
23 non-itemized price with one or more other products or services is denominated as ten minutes
24 or less or as five dollars or less, the prepaid wireless service seller may elect not to collect any

1 prepaid wireless surcharge for such retail transaction.

2 Section 4. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Any entity required to collect and remit the surcharge imposed pursuant to § 34-45-4 or
5 section 3 of this Act shall register with the Department of Revenue. There is no registration fee.
6 A registration shall be made upon a form prescribed by the secretary of the Department of
7 Revenue and shall set forth the name under which the applicant transacts or intends to transact
8 business, the location of the place of business, and such other information as the secretary may
9 require.

10 The department shall issue an identification number to each applicant. This identification
11 number is not assignable and is valid only for the entity to which it was issued. The
12 identification number is valid until canceled or revoked.

13 Section 5. That § 34-45-5 be amended to read as follows:

14 34-45-5. Any service user in the state is liable for the applicable 911 emergency surcharge
15 pursuant to § 34-45-4. Any telecommunications service provider, wireless telecommunications
16 service provider, or Interconnected Voice over Internet Protocol service provider shall collect
17 and remit to the ~~governing body~~ Department of Revenue the applicable 911 emergency
18 surcharge which shall be stated separately in any billing statement, invoice, or receipt. ~~All~~
19 ~~prepaid wireless telecommunications service providers shall remit the applicable 911 emergency~~
20 ~~surcharge for each active prepaid wireless telecommunication service user account in the state~~
21 ~~to the South Dakota 911 coordination fund. The prepaid wireless telecommunications service~~
22 ~~provider may seek reimbursement from their service user through whatever means are available~~
23 ~~to the provider.~~

24 Section 6. That § 34-45-6.1 be repealed.

~~34-45-6.1. Notwithstanding any provision of this chapter, no retailer purchasing prepaid wireless telecommunication services or devices for resale is required to collect or remit any 911 emergency surcharge.~~

Section 7. That § 34-45-7 be amended to read as follows:

34-45-7. Each telecommunications service provider, wireless telecommunications service provider, prepaid wireless telecommunications service provider, or Interconnected Voice over Internet Protocol service provider ~~has no obligation to take any legal action to enforce the collection of any charge imposed pursuant to this chapter. Such action may be brought by or on behalf of the public agency imposing the charge. Each telecommunications service provider, wireless telecommunications service provider, prepaid wireless telecommunications service provider, or Interconnected Voice over Internet Protocol service provider is not liable for such uncollected amounts~~ is liable to collect and remit the 911 emergency surcharges imposed by § 34-45-4. The service user is liable for paying the 911 emergency surcharge imposed by § 34-45-4. The service provider is not liable for any 911 emergency surcharge if the service provider is unable to collect the surcharge from the service user.

Section 8. That § 34-45-8 be repealed.

~~34-45-8. Any charge imposed pursuant to § 34-45-4 and the amounts collected for telecommunications service, wireless telecommunications service, or Interconnected Voice over Internet Protocol service shall be remitted to the governing body and the amounts collected for prepaid wireless telecommunications service shall be remitted to the South Dakota 911 coordination fund not more than thirty days after the close of the calendar quarter which shall include a return to be in such form as required by the board together with the remittance of the amount of the charge payable. Each service provider shall maintain a record of collections made for a period of one year after the collection.~~

1 Section 9. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any entity who is registered pursuant to this chapter or any entity required to collect and
4 remit the surcharges imposed by § 34-45-4 or section 3 of this Act shall file returns or reports
5 by electronic means on a monthly basis with the Department of Revenue and shall remit the
6 surcharges by electronic transfer on a monthly basis to the department unless the secretary of
7 the Department of Revenue permits an entity to file returns or reports by nonelectronic means
8 and permits an entity to remit surcharges by nonelectronic means. If an entity does not have
9 internet access on the business premises, the secretary of revenue shall permit an entity to file
10 returns or reports by nonelectronic means and permit an entity to remit surcharges by
11 nonelectronic means.

12 Section 10. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 This section applies to any return, report, or remittance filed pursuant to section 9 of this
15 Act. For any return or report that is required to be filed by electronic means, the return or report
16 shall be filed by electronic means on or before the twenty-third day of the month following each
17 period. If the twenty-third day of the month falls on a Saturday, Sunday, legal holiday
18 enumerated in § 1-5-1, or a day the Federal Reserve Bank is closed, the return or report is due
19 on the next succeeding day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1,
20 or a day the Federal Reserve Bank is closed.

21 For any surcharge that is required to be remitted by electronic transfer, the surcharge shall
22 be remitted on or before the second to the last day of the month following each period. For the
23 purpose of remitting any surcharge by electronic transfer pursuant to this section, the last day
24 and the second to the last day of the month means the last day and the second to the last day of

1 the month which are not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day the
2 Federal Reserve Bank is closed.

3 If the secretary of the Department of Revenue permits any entity to file returns or reports by
4 nonelectronic means, permits any entity to remit surcharges by nonelectronic means, or both,
5 pursuant to section 9 of this Act, any return, report, or remittance which is required to be filed
6 pursuant to 9 of this Act is timely filed if mailed, postage prepaid on or before the twentieth day
7 of the month following each period, and is received by the department. A United States Postal
8 Service postmark is evidence of the date of mailing for the purpose of timely filing of returns,
9 reports, or remittances.

10 Penalty or interest under § 10-59-6 shall be paid if a return or remittance is not made on
11 time.

12 Section 11. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The Department of Revenue shall transfer the surcharges collected pursuant to § 34-45-4
15 and section 3 of this Act to the Department of Public Safety. The Department of Public Safety
16 shall remit each month seventy percent of the revenue collected from the 911 emergency
17 surcharges imposed by § 34-45-4 to the public agency, which has adopted an ordinance pursuant
18 to § 34-45-2, where the surcharges were collected. The secretary of the Department of Public
19 Safety shall approve vouchers and the state auditor shall draw warrants to pay each public
20 agency its share of the distribution. The Department of Public Safety shall deposit thirty percent
21 of the revenue collected from the 911 emergency surcharges imposed by § 34-45-4 into the
22 public safety 911 emergency fund created pursuant to section 12 of this Act. The Department
23 of Public Safety shall deposit all of the revenue collected from the prepaid wireless service
24 surcharge imposed by section 3 of this Act into the South Dakota 911 coordination fund created

1 pursuant to § 34-45-12.

2 Section 12. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 There is hereby created within the state treasury the public safety 911 emergency fund. Any
5 money in the public safety 911 emergency fund is continuously appropriated for distribution as
6 provided in this section. A public safety answering point is eligible to receive a distribution from
7 the public safety 911 emergency fund if the public safety answering point is in compliance with
8 the standards for operation and utilization of public safety answering points as determined by
9 the board and either serves a population of more than thirty thousand or covers an area that
10 includes three or more counties. The board shall notify each public safety answering point when
11 the list of public safety answering points eligible for funding pursuant to this section changes.

12 The Department of Public Safety shall:

- 13 (1) Distribute twenty-six percent of the money deposited in the fund based on the ratio
14 of the population of each eligible public safety answering point to the population of
15 all the eligible public safety answering points; and
16 (2) Transfer seventy-four percent of the money deposited in the fund to the South Dakota
17 911 coordination fund.

18 The Department of Public Safety shall base the allocation of money for population on the
19 most recent decennial census of the United States Department of Commerce, Bureau of the
20 Census and the population estimate published by the United States Census Bureau for each year
21 ending in five. The Department of Public Safety shall make distributions from the public safety
22 911 emergency fund each quarter. The secretary of the Department of Public Safety shall
23 approve vouchers and the state auditor shall draw warrants to pay each public safety answering
24 point its share of the distribution.

Section 13. That § 34-45-9 be amended to read as follows:

34-45-9. The service provider and prepaid wireless service seller may deduct and retain ~~one~~ two percent of the collected amount or twenty-five dollars, whichever amount is greater, each month as the cost of administration for collecting the ~~charge~~ surcharge imposed by § 34-45-4 and section 3 of this Act.

Section 14. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as follows:

The prepaid wireless service seller may retain all the surcharges imposed by section 3 of this Act during the first three months this surcharge is effective. However, the prepaid wireless service seller shall report the collections retained during this month to the Department of Revenue.

Section 15. That § 34-45-10 be repealed.

~~34-45-10. At least once every calendar year, prior to September first, the governing body shall review the current charge and establish a rate of charge to be effective on the next January first, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by §§ 34-45-3 and 34-45-4. Any amount collected in excess of expenses within a given year shall be carried forward to the next year. Immediately upon making the determination and fixing the rate, the governing body shall publish its new rate, and it shall notify by registered mail every service provider at least ninety days before the new rate becomes effective. The board or governing body may, at its own expense, require an annual audit of a service provider's books and records concerning the collection and remittance of the charge authorized by §§ 34-45-3 and 34-45-4.~~

Section 16. That § 34-45-12 be amended to read as follows:

34-45-12. There is hereby created within the state treasury the South Dakota 911

1 coordination fund. Any funds collected from prepaid wireless telecommunications service
2 pursuant to ~~§ 34-45-4~~ section 3 of this Act shall be deposited in the South Dakota 911
3 coordination fund. Any money in the South Dakota 911 coordination fund is continuously
4 appropriated for reimbursement of allowable nonrecurring and recurring costs of 911 service
5 and operating expenses of the board. The board shall authorize disbursements from the fund
6 pursuant to this chapter for the expenses of the board and for approved nonrecurring and
7 recurring costs requested by the governing body of eligible 911 public safety answering points.
8 The board may solicit proposals to coordinate and implement an upgrade to the 911 emergency
9 service system of all public safety answering points. The funds may be disbursed for the purpose
10 of planning, coordinating, purchasing, installing, maintaining, and operating, an upgrade to the
11 911 emergency services system. Any interest earned on money in the fund shall be credited to
12 the fund.

13 Section 17. That § 34-45-17 be amended to read as follows:

14 34-45-17. The 911 emergency reporting system provided by this chapter is within the
15 governmental powers and authority of the governing body or public agency. In contracting for
16 the 911 emergency reporting system or the provisioning of the 911 service, except for willful
17 or wanton negligence or intentional acts, the board, the governing body, the public agency, the
18 service provider, the prepaid wireless service provider, the prepaid wireless service seller, and
19 the service supplier, their employees and agents, are immune from liability for a failure in the
20 use or operation of the 911 system. The immunity provided by this section does not extend to
21 the installation or maintenance of the 911 system.

22 Section 18. That § 34-45-18.2 be amended to read as follows:

23 34-45-18.2. The board may promulgate rules pursuant to chapter 1-26 setting:

24 (1) Minimum technical, operational, and procedural standards for the operation and

utilization of a public safety answering point;

(2) Requirements and amounts for reimbursement of recurring and nonrecurring costs;

(3) Standards for coordination of effective 911 service on a statewide basis; and

(4) Allowable expenditures of the 911 emergency surcharge proceeds collected pursuant to § 34-45-4.

~~A public safety answering point shall comply with ARSD 50:02:04:02(2) if the Legislature increases the monthly uniform charge, regardless of the amount of the increase. Furthermore, no public safety answering point may be required to comply with the provisions of ARSD 50:02:04:02(2) if the public safety answering point forswears the acceptance of revenue from any future legislative increase in the monthly uniform charge and formally resolves to continue to maintain itself pursuant to all other statutes, rules, and standards.~~ No public safety answering point may be required to comply with the provisions of ARSD 50:02:04:02(2), unless the next generation 911 initiative has been implemented. The board shall determine when the next generation 911 initiative is operational. The board shall notify each public safety answering point not complying with the provisions of this rule when this determination has been made. The public safety answering point shall comply with the provisions of the rule within ninety days. However, any public safety answering point that submits a written request to the board to opt out of the provisions of ARSD 50:02:04:02(2) may only receive seventy-five cents of each surcharge assessed pursuant to § 34-45-4 that is to be remitted such public safety answering point. The remaining surcharge assessment shall be deposited in the public safety 911 emergency fund.

Section 19. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as follows:

Any service provider collecting and remitting the surcharge imposed by § 34-45-4 or prepaid

1 wireless service seller collecting and remitting the surcharge imposed by section 3 of this Act
2 shall keep records of all receipts and telecommunications service sales. The records are, at all
3 times during business hours of the day, subject to inspection by the Department of Revenue to
4 determine the amount of surcharge due. The records shall be preserved for a period of three
5 years unless the secretary of the Department of Revenue, in writing, authorized their destruction
6 or disposal at an earlier date.

7 Section 20. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The secretary of the Department of Revenue may promulgate rules, pursuant to chapter 1-26,
10 concerning:

- 11 (1) The filing of returns and payment of the surcharges imposed by this chapter;
- 12 (2) Determining the application of the surcharges imposed by this chapter;
- 13 (3) Record-keeping requirements; and
- 14 (4) Determining auditing methods.

15 Section 21. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any person who:

- 18 (1) Makes any false or fraudulent return in attempting to defeat or evade the surcharge
19 imposed by § 34-45-4 or section 3 of this Act is guilty of a Class 1 misdemeanor;
- 20 (2) Fails to pay the surcharge collected pursuant to the provisions of this chapter within
21 sixty days from the date the surcharge becomes due is guilty of a Class 2
22 misdemeanor;
- 23 (3) Fails to keep the records required by this chapter or refuses to exhibit these records
24 to the Department of Revenue for the purpose of examination is guilty of a Class 2

1 misdemeanor;

2 (4) Fails to file a return required by this chapter within sixty days from the date the return
3 is due is guilty of a Class 2 misdemeanor;

4 (5) Willfully violates any rule of the secretary for the administration and enforcement of
5 the provisions of this chapter is guilty of a Class 2 misdemeanor; or

6 (6) Fails to submit a 911 emergency surcharge registration after having been notified in
7 writing by the secretary of the Department of Revenue that the person is subject to
8 the provisions of this chapter is guilty of a Class 2 misdemeanor. However, it is not
9 a violation of this subdivision if the person submits a registration and meets all
10 lawful prerequisites for registering within ten days from receipt of written notice
11 from the secretary.

12 For purposes of this section, the term, person, includes corporate officers, member-managers
13 or managers of limited liability companies, or partners that control, supervise, or are charged
14 with the responsibility of filing the returns or remitting the payments pursuant to this chapter.

15 Section 22. That § 34-45-1 be amended to read as follows:

16 34-45-1. Terms used in this chapter mean:

17 (1) ~~"Active prepaid wireless telecommunication service user account," a prepaid wireless~~
18 ~~service account;~~

19 ~~———— (a) — Which has a sufficient positive balance as of the last day of any month and is~~
20 ~~issued to a person who resides in a zip code, or purchases the service, within~~
21 ~~the state;~~

22 ~~———— (b) — As estimated by dividing the total earned prepaid wireless telecommunications~~
23 ~~service revenue received by the service provider within the monthly reporting~~
24 ~~period by the industry's annually calculated average revenue per user as cited~~

1 in the FCC's Annual Report and Analysis of Competitive Market Conditions
2 With Respect to Commercial Mobile Services as required under 47 U.S.C.
3 § 332(c)(1)(C); or

4 ~~_____ (c) Which is a retail sale by a prepaid wireless telecommunications service~~
5 ~~provider to a service user in the state;~~

6 ~~—(2)~~ "Basic 911," any service which provides the user of a calling device, which utilizes
7 any communications technology, the ability to reach a public safety answering point
8 to report police, fire, medical, or other emergency situations by dialing 911;

9 ~~(3)(2)~~ "Board," the South Dakota 911 Coordination Board created pursuant to § 34-45-18;

10 ~~(4)(3)~~ "Enhanced 911," any system which provides the user of a calling device, which
11 utilizes any communications technology, the ability to reach a public safety
12 answering point by dialing the digits 911, and which routes that call to the
13 appropriate public safety answer point and which automatically provides information
14 about the service user to a 911 dispatcher including the user's name, location, call
15 back number, and assigned emergency responders;

16 ~~(5)(4)~~ "Governing body," the board of county commissioners of a county or the city council
17 or other governing body of a county or municipality or the board of directors of a
18 special district;

19 ~~(6)(5)~~ "Interconnected Voice-over Internet Protocol (VoIP) service," any service with the
20 following characteristics:

- 21 (a) Enables real-time two-way voice communication;
- 22 (b) Requires a broadband connection from the user's location;
- 23 (c) Requires internet protocol-compatible customer premise equipment; and
- 24 (d) Permits users generally to receive calls that originate and terminate on the

1 public switched telephone network;

2 ~~(7)(6)~~ "911 emergency reporting system" or "911 system," any telecommunications service
3 system consisting of network, database, and on-premises equipment which utilizes
4 the single three-digit number 911 for reporting police, fire, medical, or other
5 emergency situation;

6 ~~(8)(7)~~ "911 emergency surcharge," any charge set by ~~the governing body~~ this chapter and
7 assessed on any service user of any telecommunications service, wireless
8 telecommunications service, or Interconnected Voice over Internet Protocol service,
9 ~~or wireless prepaid telecommunications service~~ which physically terminates or
10 originates within the governing body's designated 911 service area. The 911
11 emergency surcharge shall be assessed and remitted for Interconnected Voice over
12 Internet Protocol and wireless telecommunications service based upon the service
13 user's place of primary use. Notwithstanding any other provision of this chapter and
14 for purposes of the surcharge imposed by this chapter, the surcharge imposed upon
15 wireless telecommunication services shall be administered in accordance with 4
16 U.S.C. §§ 116-126. ~~For prepaid wireless telecommunications services, the term, 911~~
17 ~~emergency surcharge, means any charge set and assessed for service provided to an~~
18 ~~active prepaid wireless telecommunications service user account within the state~~
19 ~~provided, however, that with respect to an active prepaid wireless~~
20 ~~telecommunications service user account under subsection 34-45-1(1)(c), the~~
21 ~~surcharge shall be two percent of the retail purchase price of such service;~~

22 ~~(9)(8)~~ "Nonrecurring costs," any capital or start-up expenditure such as telecommunications
23 equipment, software, database, initial training, and the purchase or lease of subscriber
24 names, addresses, and telephone information;

(10)(9) "Place of primary use," the street address where the customer's use of the communications service primarily occurs or the customer's registered location on the date the customer is billed;

(11)(10) "Prepaid wireless service consumer," any person who purchases prepaid wireless telecommunications service in a retail transaction;

(11) "Prepaid wireless service provider," any person that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission;

(12) "Prepaid wireless service seller," any person who sells prepaid wireless telecommunications service to prepaid wireless service consumer;

(13) "Prepaid wireless telecommunications service," any wireless telecommunications service that is activated in advance by payment for a finite dollar amount of service or for a finite number of minutes that terminate either upon use by any person or within a certain period of time following the initial purchase or activation, unless an additional payment is made any telecommunications service that provides the right to utilize a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount;

(12)(14) "Public agency," any municipality, county, public district, or public authority located in whole or in part within this state which provides or has the authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services county or municipality that has adopted an ordinance pursuant to § 34-45-2;

1 ~~(13)~~(15) "Public safety answering point," any twenty-four hour communications facility
2 which receives all 911 service calls and reroutes the requestor or information
3 to appropriate public or private safety agencies;

4 ~~(14)~~(16) "Recurring costs," any costs such as network access fee and other telephone
5 charges, software, equipment, database management, maintenance, charges to
6 maintain database of subscriber names, addresses, and telephone information
7 from the local exchange access company. Recurring costs may include
8 personnel expenses for a public safety answering point;

9 ~~(15)~~(17) "Registered location," the most recent information obtained by an
10 Interconnected Voice over Internet Protocol service provider that identifies the
11 physical location of an end user;

12 ~~(16)~~(18) "Service provider," any person or entity providing, offering to provide, or
13 selling telecommunications service, wireless telecommunications service,
14 ~~prepaid wireless telecommunications service~~, or Interconnected Voice over
15 Internet Protocol service;

16 ~~(17)~~(19) "Service supplier," any person or entity who provides or offers to provide 911
17 system equipment, installation, maintenance, or exchange access services
18 within the 911 service access area;

19 ~~(18)~~(20) "Service user," any person who purchases telecommunications service,
20 wireless telecommunications service, ~~prepaid wireless telecommunications~~
21 ~~service~~, or Interconnected Voice over Internet Protocol service in this state
22 without intent for resale;

23 ~~(19)~~(21) "Service user line," the means by which a service user may place a call to a
24 public safety answering point through the use of a telecommunications service,

wireless telecommunications service, ~~prepaid wireless telecommunications service~~, or Interconnected Voice over Internet Protocol service. In the case of multi-station network systems, service user lines shall be equal to the number of calls that can simultaneously be made from such system to the public switched telephone network;

~~(20)~~(22) "Telecommunications service," the transmission of signs, signals, writings, images, sounds, messages, data, or other information of any nature by wire, radio, lightwave, electromagnetic means, or other similar means. The term does not include the provision of terminal equipment used to originate or terminate such service, broadcast transmissions by radio, television, and satellite stations regulated by the Federal Communications Commission and one-way cable television service;

~~(21)~~(23) "Wireless telecommunications service," commercial mobile radio service, as such term is defined in 47 C.F.R. 203 as of January 1, 2008.

Section 23. That § 34-45-20 be amended to read as follows:

34-45-20. The board shall:

- (1) Evaluate all of the current public safety answering points and systems throughout the State of South Dakota for their capability to adequately and efficiently administer systems;
- (2) Develop plans for the implementation for a uniform statewide 911 system covering the entire state or so much as is practicable;
- (3) Monitor the number and location of public safety answering points or systems and the use of 911 emergency surcharge funds in their administrative and operational budgets;

- 1 (4) Develop criteria and minimum standards for operating and financing public safety
2 answering points or systems;
- 3 (5) Develop criteria for the eligibility and amount of reimbursement of recurring and
4 nonrecurring costs of public safety answering points or systems;
- 5 (6) Develop criteria for the implementation of performance audits of the use of the 911
6 fees utilized in the operation of the 911 system. The audit shall be conducted by the
7 Department of Legislative Audit and shall be presented to the board and the
8 Legislature; ~~and~~
- 9 (7) Report annually to the Government Operations and Audit Committee about the
10 operations and findings of the board and any recommendations for changes in the
11 surcharges imposed by this chapter and the distribution of the revenue; and
- 12 (8) Report annually to the Governor and the Legislature about the operations and
13 findings of the board and any recommendations for changes to 911 service in the
14 state.

15 Section 24. That § 34-45-4 be amended to read as follows:

16 34-45-4. ~~Upon compliance with § 34-45-2, the governing body may assess a~~ A monthly
17 uniform ~~charge in an amount not to exceed seventy-five cents~~ 911 emergency surcharge of one
18 dollar shall be assessed per service user line. The proceeds of this ~~charge~~ surcharge shall be used
19 to pay for allowable nonrecurring and recurring costs of the 911 system. ~~Any prepaid wireless~~
20 ~~telecommunications service provider shall remit the 911 emergency surcharge for each active~~
21 ~~prepaid wireless telecommunication service user account to the South Dakota 911 coordination~~
22 ~~fund. The proceeds of the South Dakota 911 coordination fund are continuously appropriated~~
23 ~~for reimbursement of allowable nonrecurring and recurring costs of 911 service and operating~~
24 ~~expenses of the board. No such charge~~ No 911 emergency surcharge may be imposed upon more

1 than one hundred service user lines or equivalent service, per customer account billed, per
2 month. In the case of multi-station network systems, service user lines shall be equal to the
3 number of calls that can simultaneously be made from such system to the public switched
4 telephone network. No prepaid wireless telecommunications service is subject to the surcharge
5 imposed under this section.

6 Section 25. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The Department of Revenue shall transfer the surcharges collected pursuant to § 34-45-4
9 and section 3 of this Act to the Department of Public Safety. The Department of Public Safety
10 shall remit each month eighty-five percent of the revenue collected from the 911 emergency
11 surcharges imposed by § 34-45-4 to the public agency, which has adopted an ordinance pursuant
12 to § 34-45-2, where the surcharges were collected. The secretary of the Department of Public
13 Safety shall approve vouchers and the state auditor shall draw warrants to pay each public
14 agency its share of the distribution. The Department of Public Safety shall deposit fifteen
15 percent of the revenue collected from the 911 emergency surcharges imposed by § 34-45-4 into
16 the public safety 911 emergency fund created pursuant to section 12 of this Act. The Department
17 of Public Safety shall deposit all of the revenue collected from the prepaid wireless service
18 surcharge imposed by section 3 of this Act into the South Dakota 911 coordination fund created
19 pursuant to § 34-45-12.

20 Section 26. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 There is hereby created within the state treasury the public safety 911 emergency fund. Any
23 money in the public safety 911 emergency fund is continuously appropriated for distribution as
24 provided in this section. A public safety answering point is eligible to receive a distribution from

1 the public safety 911 emergency fund if the public safety answering point is in compliance with
2 the standards for operation and utilization of public safety answering points as determined by
3 the board and either has a population of more than thirty thousand or covers an area that
4 includes three or more counties. The board shall notify each public safety answering point when
5 the list of public safety answering points eligible for funding pursuant to this section changes.
6 The Department of Public Safety shall distribute the money deposited in the fund based on the
7 ratio of the population of each eligible public safety answering point to the population of all the
8 eligible public safety answering points.

9 The Department of Public Safety shall base the allocation of money for population on the
10 most recent decennial census of the United States Department of Commerce, Bureau of the
11 Census and the population estimate published by the United States Census Bureau for each year
12 ending in five. The Department of Public Safety shall make distributions from the public safety
13 911 emergency fund each quarter. The secretary of the Department of Public Safety shall
14 approve vouchers and the state auditor shall draw warrants to pay each public safety answering
15 point its share of the distribution.

16 Section 27. That § 10-59-1 be amended to read as follows:

17 10-59-1. The provisions of this chapter may only apply to proceedings commenced under
18 this chapter concerning the taxes, the fees, the surcharges, or the persons subject to the taxes ~~or,~~
19 fees, or surcharges imposed by, or any civil or criminal investigation authorized by, chapters 10-
20 33A, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-46E,
21 10-47B, 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, 34-45, and 34A-13 and
22 §§ 22-25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B.

23 Section 28. Sections 24 to 26, inclusive, are effective on July 1, 2018.

24 Section 29. Sections 11 and 12 are repealed on July 1, 2018.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

974T0086

HOUSE EDUCATION ENGROSSED NO. **SB 186** 2/22/2012

Introduced by: Senators Heineman, Johnston, Kraus, Maher, Novstrup (Al), Rhoden, and
Schlekeway and Representatives Gosch, Bolin, Brunner, Hansen (Jon),
Jensen, Liss, Rausch, Sly, and Wick

1 FOR AN ACT ENTITLED, An Act to update the definition of the nonsectarian textbooks that
2 are loaned to certain students to include digital materials.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-34-23 be amended to read as follows:

5 13-34-23. Each public school board shall loan without charge to all persons ages five
6 through nineteen who are either enrolled in a public school, ~~or in a school supervised in accord~~
7 ~~with chapter 13-4~~ or a nonpublic school, or who are engaged in a course of instruction pursuant
8 to § 13-27-3, within the school district under such board's jurisdiction or who are residing in
9 such district but are not enrolled in any such school or engaged in any such course of instruction,
10 such nonsectarian textbooks designed for individual use as are normally furnished by such
11 school board to individual students enrolled in the public schools of the district under such
12 board's jurisdiction. For the purposes of this chapter, textbooks are any instructional materials
13 that constitute the principal source of teaching and learning for a given course of study including
14 print and digital materials not otherwise precluded from distribution by contract provisions of



- 1 copyright or site restriction provisions, but not including any computer hardware. All such
- 2 textbooks shall be approved by the respective school boards.